

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3976-05
Bill No.: SCS for HS for HB 1498
Subject: Crimes and Punishment; Elderly; Hospitals; Nursing and Boarding Homes
Type: Original
Date: May 14, 2002

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(UNKNOWN)	(UNKNOWN)	(UNKNOWN)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Social Services, Office of Administration - Division of Information Services, State Courts Administrator, Department of Elementary and Secondary Education** and the **Department of Health and Senior Services** assume this proposal would not fiscally impact their agency.

Official from the **Department of Mental Health (DMH)** state DMH employees, independent contractors and staff are required to act under section 589.430 and yet are specifically excluded from immunity to liability granted to law enforcement agencies and their employees, state officials, the departments of public safety, corrections, social services and their employees, independent contractors and their staff. This creates unnecessary fiscal liability for the state. Outside of section 589.430, no other part of this bill requires action by the DMH or results in costs accrued to the department.

Officials from the **Office of the State Public Defender (SPD)** assume that existing staff could continue to provide representation in cases arising where indigent persons were charged with attempted forcible rape or attempted forcible sodomy. However, these cases could become more time consuming due to the fact that anyone convicted would now have to serve at least 85% of their time due to the reclassification as a dangerous felony. This proposal also creates the crime of child enticement a class C Felony. Attempting to entice is a class D Felony. Enticing with prior sexual crimes is a class B Felony. The SPD can also provide representation to indigent persons accused of having sexual contact with an inmate, an animal or a nursing home resident with existing staff. During the last fiscal year, the SPD provided representation in 182 rape cases and 87 sodomy cases. Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the SPD to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious crimes.

Officials from the **Department of Public Safety (DPS)** state the proposed legislation only authorizes DPS to create the Missouri Regional Computer Forensics Lab. Creation of the lab will depend on state appropriations, federal funds, and other funding sources.

Officials from the **Department of Corrections (DOC)** stated the DOC's procedure strictly prohibits the type of offender criminal behavior outlined in this bill. Class C felons have an average length of stay in prison of 3.8 years. There were no admissions to DOC in FY01 for offender sexual abuse by an employee. DOC has no data pertaining to the crimes regarding skilled nursing facilities.

Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offenses(s) outlined in this proposal. An increase in commitments depends on the

ASSUMPTION (continued)

utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate, per day or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender, per day or an annual cost of \$1,219 per offender).

Therefore, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the Office of Attorney General's Office assume an unknown cost savings due to the addition of 632.483 which will prevent AGO from having to have an expert witness to determine whether an offender meets the definition of a sexually violent predator.

Officials from the **Office of Prosecution Services** did not respond to our fiscal note request.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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GENERAL REVENUE

<u>Savings - Attorney General's Office</u>			
Witness expert savings	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
Total <u>Savings</u> - Attorney General's Office	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<u>Cost - Department of Public Safety</u>			
Creation of Missouri Regional Computer Forensics Lab	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
Total <u>Costs</u> - Department of Corrections	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Costs - Department of Corrections</u>			
Additional commitments and paroles	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
Total <u>Costs</u> - Department of Corrections	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE*	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>	<u>(UNKNOWN)</u>
*Excludes witness expert savings			
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal creates the Missouri Regional Computer Forensics Lab which will be located near an international airport and operated by the Department of Public Safety.

This proposal adds attempted forcible rape and attempted forcible sodomy to the definitions of "Dangerous Felony".

This bill makes it a class B misdemeanor for an owner or employee of a skilled nursing facility or of an Alzheimer's special unit or program to have sexual contact with a resident of the facility or with a client in his or her care. In addition, sexual intercourse or deviant sexual intercourse in these cases is a class D felony. An employee who is married to a resident or client and engages in this activity with his or her spouse is exempt from prosecution.

This proposal makes it a class A misdemeanor for any person that engages in any sexual conduct with an animal or causes or aids another to engage in sexual conduct with an animal.

The bill also creates the crime of sexual contact with a prison inmate. Any employee or other person working in any correctional facility who engages in sexual intercourse or deviate sexual

DESCRIPTION (continued)

intercourse with any inmate or other resident of the facility is guilty of this crime, a class C felony.

This proposal makes it a class D felony for any person attempting to entice a child.

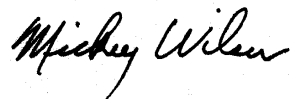
This proposal defines those required to register pursuant to section 589.400 and notifications required.

This proposal has an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Social Services
Department of Health and Senior Services
Department of Social Services
Department of Mental Health
Office of State Public Defender
Department of Elementary and Secondary Education
Office of Administration - Division of Information Services
State Courts Administrator
Department of Public Safety
Department of Corrections
Attorney General's Office
Not Responding: Office of Prosecution Services



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Acting Director
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